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FISCAL IMPACT REPORT

ORIGINAL DATE 03/02/15
 SPONSOR Leavell LAST UPDATED 03/19/15 **HB** _____
 SHORT TITLE Insurance Code Changes **SB** 663/aSJC
 ANALYST Sanogo/Clark

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
NFI	NFI	Indeterminate but Negative	Recurring	Insurance Operating Fund
NFI	NFI	Indeterminate but Negative	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
 Office of Superintendent of Insurance (OSI)
 State Investment Council (SIC)
 Attorney General's Office (AGO)
 Workers' Compensation Administration (WCA)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee (SJC) amends SB 663, clarifying language in the bill to reflect recommendations from the Attorney General's Office (see "Technical Issues").

Synopsis of Original Bill

Senate Bill 663 updates and streamlines sections of the Insurance Code (see Section 59A NMSA 1978):

SB 663

Section(s)	Page(s)	Summary
1	1-5	Increases depository requirements for insurance carriers
2-7	5-12	Consolidates the definitions of types of insurance that carriers may provide
8-22	12-38	Revises licensing requirements and procedures to sell or administer insurance
23-44	38-72	Revises provisions and requirements applying to insurance agents ("insurance producers")

Effective Date: July 1, 2016

Includes: Severability clause

The bill revises the Insurance Code in anticipation of a major restructuring of the software used by the Office of Superintendent of Insurance (OSI) to administer, monitor, and enforce many functions related to company and producer licensing. The bill amends or replaces provisions in Articles 5, 7, 11, and 12 of the Insurance Code in order to bring the statutes into closer conformance with regulatory practice throughout the United States.

The bill is organized as follows:

- Section 1 increases the statutory deposits required for insurance carriers to do business in New Mexico. Because of alterations of lines of business for which companies will be licensed under Article 7 (see below) the statutory deposits will be adjusted to keep this deposit amounts approximately level. The deposits are held for the protection of the public and insurance consumers, and are a standard component of insurance regulatory practices across the nation.
- Sections 2 through 7 revise the definitions of the lines of insurance a company may be licensed to engage in. These revised definitions consolidate many "lines" of business into just a few: 1) life and annuities; 2) accident and health; 3) property; 4) casualty; and 5) variable life and annuity.
- Sections 8 through 22 revise the provisions for licensing procedures by which individuals (and companies) apply for the various licenses to sell or administer insurance. These changes affect the procedures under which one applies for a license to sell insurance, the examination an applicant is required to pass, and the structure with which the OSI supervises, renews, suspends and revokes such licenses.
- Sections 23 through 44 revise the provisions in Article 12 which apply to insurance producers, whom most in the public will recognize as "insurance agents," that is, those who act on behalf of insurance companies to sell their products to the public. This includes those who find coverage on behalf of individuals and commercial entities, known as brokers.
- Sections 45 through 47 repeal various provisions in the Articles discussed above, provide for severability in the event of one section being held invalid, and provide an effective date of July 1, 2016, the date on which the extensive restructuring of the agency's IT and administrative functions are planned to be effective and functioning.

FISCAL IMPLICATIONS

There would be no fiscal impact for FY15 or FY16 because the bill's effective date is the start of FY17. In FY17, there would be a reduction in fee revenues to the insurance operating fund due to streamlining existing lines of insurance if legislation is not passed to increase fee amounts to negate this negative impact. Insurance revenues generally revert primarily to the general fund, so this would also create a negative general fund impact if fee amounts are not raised.

OSI reports it is currently studying fee revenues to determine how insurance fees should be set under the structure proposed by this bill to prevent any negative fiscal impact, and the agency will provide these recommendations for a bill to be introduced in the 2016 session. Many of the fees have not been significantly revised in decades.

SIGNIFICANT ISSUES

The bill updates and streamlines the Insurance Code, bringing New Mexico into regulatory conformance with the majority of states (40 such states). Most insurers do business in multiple states, and having uniformity in provisions which govern licensing, supervision, and enforcement have important benefits for the cost and administrative burden for insurance producers and the protection of the public and consumers.

The bill modernizes and standardizes certain licensing procedures for both companies practicing the business of insurance in New Mexico as well as individuals acting as agents, who perform an independent function in the industry. Now referred to as "producers," these professionals, known as insurance agents or brokers, act as intermediaries between the carrier and those to whom the insurance product is sold. The bill also requires continuing education for insurance producers.

The national accrediting organization for state regulatory agencies is the National Association of Insurance Commissioners (NAIC). This organization performs many tasks on behalf of their state regulatory members, including assistance in researching and preparing model laws and regulations to help standardize insurance practice across the country. NAIC promulgated standardized software, known as the State Based System (SBS), to assist regulators in administering and enforcing licensing procedures. The adoption of the SBS system will allow New Mexico to conform its licensing procedures to those already in use in other states, allowing more efficiency in the practice of insurance across state lines. To adopt the SBS system, it is necessary to conform New Mexico's licensing provision to the model act promulgated by NAIC, the so-called Producer Licensing Model Act (PLMA). That is what this bill attempts to accomplish.

With the adoption of PLMA, the states are able to introduce statutory language in order to support a more efficient, streamlined, and reciprocal licensing system for producer licensing as well as establish uniform standards in key areas of producer licensing. PLMA is designed to assist the states in creating a uniform system of producer licensing among all states. OSI argues this enhances the ability of those in the industry to do business more efficiently, and this in turn allows for enhanced price competition in this very competitive industry, benefitting consumers, both individual and commercial, by lowering costs and providing better products and services.

PERFORMANCE IMPLICATIONS

Adoption of this bill would allow OSI staff to put in place modern and superior procedures and software to provide greater efficiency and effective supervision of regulated individuals and companies.

ADMINISTRATIVE IMPLICATIONS

There would be an additional administrative burden on OSI at first to implement the new software system, rules, and procedures, but subsequently the software and streamlined rules would ease OSI's current administrative burden.

TECHNICAL ISSUES

Concerning possible drafting errors, the Attorney General’s Office (AGO) has provided the following:

- Section 2. The bill adds a subsection (C) to Section 59A-7-1 regarding permissible insurance activities. The first sentence of subsection (C) refers to “insurance companies.” To be consistent with the rest of the Insurance Code, this reference might be changed to “insurer.”
- Section 9. The bill adds a new Section 59A-11-2. Subsection (A) refers to “a person” applying for a resident insurance producer license. The term “person” in a statute often refers to individuals and entities. To avoid ambiguity, the term “person” in subsection A might be changed to “individual.”
- Section 10. The bill adds a new Section 59A-11-3. The new provision refers to a “business entity” acting as an insurance producer. The use of the term “business entity” conflicts with the title of the section, which is “Application by Partnership or Corporation.” To avoid ambiguity, the title should be changed to “Application by a Business Entity” and the term “business entity” should be defined for purposes of Chapter 59A, Article 11 NMSA 1978. The bill now defines “business entity” only for purposes of Article 12 (Section 24 of the bill).
- Section 24. The bill adds a new Section 59A-12-2. Subsection (J) refers to “Section 22 of this 2015 act.” Subsection (J) discusses “limited lines insurance” and Section 22 governs the requirements for a nonresident license. The disparity in the subjects covered by the two provisions suggests that the reference to Section 22 in Subsection (J) is an error.
- Section 25. The bill enacts a new Section 59A-12-3. In pertinent part, it provides: “... unless the person is licensed for that line of authority in accordance with the Insurance Code.” The word “authority” in the quoted language should probably be changed to “insurance.”
- In a few places, the bill includes sections that appear to govern the same subject. For example, Sections 9, 10 and 28 address requirements for insurance producer licenses and Sections 12 and 27 address examination requirements for insurance producer applicants. If, as it appears, these provisions are duplicative or inconsistent, they should be reconciled to avoid any confusion in their application and interpretation.